UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,659	01/26/2006	Dieter J. Reinscheid	116676-006	4794

29180 7590 02/04/2008
BELL, BOYD, & LLOYD LLP
P.O. BOX 1135
CHICAGO, IL 60690

EXAMINER	
TONGUE, LAKIA J	
ART UNIT	PAPER NUMBER
1645	

MAIL DATE	DELIVERY MODE
02/04/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/531,659	REINSCHEID ET AL.	
	Examiner	Art Unit	
	Lakia J. Tongue	1645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 August 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14,18-22,24-31,35 and 37-49* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-14,18-22,24-31,35 and 37-49* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1, 3-6 and 8-12, drawn to an isolated nucleic acid molecule encoding a fibrinogen binding polypeptide, comprising a nucleic acid sequence of SEQ ID NO: X.

Group II, claim(s) 2-6 and 8-12, drawn to an isolated nucleic acid molecule encoding an adhesion factor comprising nucleic acid sequence of SEQ ID NO: X.

Group III, claim(s) 7, 18, 20, 31 and 46-48, drawn to an isolated nucleic acid molecule encoding a polypeptide comprising SEQ ID NO: 222.

Group IV, claim(s) 13 and 14, drawn to a fibrinogen-binding polypeptide comprising an amino acid sequence of SEQ ID NO: X

Group V, claim(s) 13 and 14, drawn to an adhesion factor comprising an amino acid sequence of SEQ ID NO: X.

Group VI, claim(s) 19, drawn to a pharmaceutical composition comprising the polypeptide of SEQ ID NO: 222, further comprising an immunostimulatory substance.

Group VII, claim(s) 19, drawn to a pharmaceutical composition comprising an isolated nucleic acid molecule encoding for a polypeptide comprising an amino acid motif of SEQ ID NO: 222, further comprising an immunostimulatory substance.

Group VIII, claim(s) 21, 22 and 24, drawn to an antibody or antigen binding part thereof, which binds to the polypeptide of SEQ ID NO: 222.

Group IX, claim(s) 25, drawn to a method for identifying an antagonist capable of reducing or inhibiting the activity of the polypeptide of SEQ ID NO: 222.
Group X, claim(s) 25, drawn to a method for identifying an antagonist capable of binding to the polypeptide of SEQ ID NO: 222.

Group XI, claim(s) 26 and 49, drawn to a method for identifying an antagonist capable of reducing or inhibiting the activity of the polypeptide of SEQ ID NO: 222 comprising a) providing the isolated polypeptide comprising SEQ ID NO: 222, b) providing an interaction partner of said polypeptide, c) providing a candidate antagonist, d) reacting the Polypeptide, the interaction partner of the polypeptide and the candidate antagonist, and e) determining whether the candidate antagonist inhibits or reduces the activity of the polypeptide.

Group XII, claim(s) 27 and 49, drawn to a method for identifying an antagonist capable of reducing or inhibiting the activity of the polypeptide of SEQ ID NO: 222 comprising a) providing the isolated polypeptide comprising SEQ ID NO: 222, b) providing an interaction partner of said polypeptide, c) allowing interaction of said polypeptide to said interaction partner to form an interaction complex, d) providing a candidate antagonist, e) allowing a competition reaction to occur between the candidate antagonist and the interaction complex and f) determining whether the candidate antagonist inhibits or reduces the activities of the polypeptide with the interaction partner.

Group XIII, claim(s) 28, drawn to an antagonist capable of reducing or inhibiting the activity of the polypeptide of SEQ ID NO: 222 comprising a) providing the isolated polypeptide comprising SEQ ID NO: 222, b) providing an interaction partner of said polypeptide, c) providing a candidate antagonist, d) reacting the Polypeptide, the interaction partner of the polypeptide and the candidate antagonist, and e) determining whether the candidate antagonist inhibits or reduces the activity of the polypeptide.

Group XIV, claim(s) 28, drawn to an antagonist capable of reducing or inhibiting the activity of the polypeptide of SEQ ID NO: 222 comprising a) providing the isolated polypeptide comprising SEQ ID NO: 222, b) providing an interaction partner of said polypeptide, c) allowing interaction of said polypeptide to said interaction partner to form an interaction complex, d) providing a candidate antagonist, e) allowing a competition reaction to occur between the candidate antagonist and the interaction complex and f) determining whether the candidate antagonist inhibits or reduces the activities of the polypeptide with the interaction partner.

Group XV, claim(s) 29, drawn to a process for *in vitro* diagnosis of a bacterial infection, comprising determining the presence of the nucleic acid molecule of an isolated nucleic acid molecule encoding for the polypeptide of SEQ ID NO: 222.

Group XVI, claim(s) 29, drawn to a process for *in vitro* diagnosis of a bacterial infection, comprising determining the presence of the nucleic acid molecule of the polypeptide of SEQ ID NO: 222.

Group XVII, claim(s) 30, drawn to a process for *in vitro* diagnosis of a disease related to expression of the presence of the polypeptide of SEQ ID NO: 222, comprising determining the presence of a nucleic acid sequence encoding said polypeptide.

Group XVIII, claim(s) 35, drawn to an aptamer or spiegelmers which binds to the polypeptide of SEQ ID NO: 222.

Group XIX, claim(s) 37, drawn to a ribozymes, antisense nucleic acids or siRNA which binds to the nucleic acid molecule encoding for the polypeptide of SEQ ID NO: 222.

Group XX, claim(s) 18, 20, 31 and 38-45, drawn to an isolated polypeptide of SEQ ID NO: 222 which binds to a Group B streptococcus.

Sequence Election Requirement Applicable to All Groups

In addition, Groups I, II, IV and V detailed above reads on patentably distinct sequences. Each sequence is patentably distinct because they are sequences with differing biochemical and immunological properties and a further restriction is applied to each Group.

Applicant is advised that examination will be restricted to only the elected antigen or combination of antigens and this should not be construed as a species election.

The inventions listed as Groups I-XX do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The technical feature linking Groups I-XX appears to be a *Streptococcus agalactiae* antigen. However, Glaser et al. (Molecular Microbiology, 2002; 45(6): 1499-1513) disclose the genome sequence of *Streptococcus agalactiae* (see page 1499, abstract).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims

encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. Failure to do so may result in a loss of the right to rejoinder. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakia J. Tongue whose telephone number is 571-272-2921. The examiner can normally be reached on Monday-Friday 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shanon Foley can be reached on 571-272-0898. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LJT
1/17/08

ROBERT A. ZEMAN
PRIMARY EXAMINER